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IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR THE ESTABLISHMENT OF JUST AND REASONABLE RATES AND CHARGES DESIGNED TO REALIZE A REASONABLE RATE OF RETURN ON THE FAIR VALUE OF ITS OPERATIONS THROUGHOUT THE STATE OF ARIZONA.

DOCKET NO. E-01933A-12-0291

RESPONSIVE BRIEF OF OPOWER, INC. AND PARTIAL JOINDER OF TUCSON ELECTRIC POWER CO.'S CLOSING BRIEF

Opower, Inc. ("Opower") by and through its undersigned counsel, herby files its Responsive Brief. Opower supports and joins in the Closing Brief filed by Tucson Electric Power Company ("TEP"), specifically Sections IV, F and G and Section VI as set forth herein. As a result, Opower requests that the Administrative Law Judge in this proceeding adopt the Settlement Agreement without modification.

I. Section IV. F Energy Efficiency Plan

Opower is an Arlington, Virginia-based company that provides information-based behavioral energy efficiency programs for over 75 utilities in 30 states, including Tucson Electric Power, UNS Electric, and Arizona Public Service in Arizona. (Opower-1 at 5). This year, Opower will deliver personalized energy usage insights to more than 15 million residential customers through paper mail, email, websites, smart phones, and text messages. (*Id.*). Opower's Home Energy Reports program consistently motivates customers to save an average of 1.5-3% on their energy bills. (*Id.*). Opower has helped its utility partners drive this level of energy efficiency at scale, achieving more than 1.6 terawatt-hours in energy savings, and driving significant increases in customer energy efficiency program participation and overall customer satisfaction. (*Id.*).

Opower supports approval of TEP's Energy Efficiency plan as proposed in this case and is a signatory to the Settlement Agreement. (Opower-2 at 3). Electric energy efficiency delivers significant and cost-effective benefits for TEP customers, the electric system, and the economy. (Opower-1 at 6). Cost-effective energy efficiency is a reliable resource, which is less expensive than other energy sources. (*Id.*). Because cost-effective energy efficiency is the lowest cost generation resource, increasing investment in energy efficiency efforts can save consumers money through lower electric bills. (*Id.*). Investment in additional energy efficiency programs is in the public interest as it allows for the diversification of the energy resource portfolio of utilities, enhances grid reliability, and defers investment in unnecessary and expensive infrastructure. (*Id.*). Finally, by reducing electricity demand, energy efficiency mitigates the need to increase electricity and fuel prices and reduces customer vulnerability and exposure to price volatility. Put simply, energy efficiency saves ratepayers money. (*Id.*).

TEP's commitment to reinstate and receive cost recovery for EE programs that were suspended or cut serves the public interest in two ways. (Opower-2 at 3). First, EE programs will be able to deliver significant savings for a large number of TEP residential customers during the upcoming summer months and help TEP to shift energy use from peak times during the upcoming summer months. (*Id.*). Second, energy efficiency companies will be given more long-term regulatory certainty to continue to do business in the state of Arizona. (*Id.*).

II. <u>Section IV.G Lost Fixed Cost Recovery (LFCR).</u>

Opower supports cost recovery of TEP's Energy Efficiency Plan through the LFCR. TEP's suspension of existing EE programs prevents EE businesses like Opower from providing energy savings to customers and paralyzes the business environment for energy efficiency in the state. (Opower-2 at 3). If TEP is unable to recover its costs to meet its existing and future EE obligations, EE businesses will likely view any future investments in the state as too much of a risk. (*Id.*). Currently, utilities can receive a rate of return on capital assets like power plants, but not on lower-cost resources like energy efficiency. (Opower-1 at 8). This incentivizes utilities to build more plants, increasing the rate base and raising costs for consumers in the long-term. (*Id.*). Many states throughout the US, including Arizona, have recognized the importance of energy efficiency as a resource, and have created Energy Efficiency Resource Standards or EERS, to require utility investment in energy efficiency. (Opower-1 at 8-9). These policies have successfully created a market for energy efficiency in over 26 states. (Opower-1 at 9). Although these policies are helpful in driving energy efficiency investment, without a guaranteed program cost recovery mechanism, utilities would not have the incentive to invest in energy efficiency as they would if such cost recovery was guaranteed. (*Id.*).

Energy efficiency businesses like Opower need long-term regulatory certainty, similar to what they enjoy in other states, to thrive in Arizona. (Opower-1 at 10). Regulatory certainty for utilities like TEP translates directly to market certainty for businesses that serve utilities in achieving their regulatory objectives. (*Id.*). Unclear expectations create market uncertainty. (*Id.*). This can occur when energy efficiency programs are approved but unfunded or when utilities are given aggressive energy efficiency goals but denied the resources to meet those goals. (*Id.*). Such market uncertainty forces companies to look to other states to do business. (*Id.*).

III. <u>Section VI. TEP requires Resolution of Energy Efficiency Issues.</u>

Opower recognizes that there needs to be some type of resolution to TEP's Energy Efficiency issues in this rate case. Although the Commission approved new EE programs, like the Home Energy Report program, and expanded budgets throughout the 2010-2011 timeframe, the adjustor mechanism to collect the Commission-approved EE program funds has not been reset since June 1, 2010. (Opower-1 at 9). As a result, the adjustor mechanism has not been reset to adequately fund Commission-authorized programs and program budgets and beginning in March 2012, many of TEP's existing programs were suspended or downsized and expansions were delayed. (Opower-1 at 10). Specifically, the Home Energy Reports program was suspended as of

October 2012. (*Id.*). More certain cost recovery for TEP will create additional long-term regulatory certainty for EE companies, allowing them to continue to do business in the state of Arizona. (Opower-2 at 4). When EE programs are approved without a cost-recovery mechanism in place, regulatory and market uncertainty will follow. (*Id.*).

IV. Conclusion.

For the reasons set forth in TEP's Closing Brief and supported herein, Opower requests that the Administrative Law Judge in this proceeding adopt the Settlement Agreement without modification.

RESPECTFULLY SUBMITTED this 29th day of March, 2013.

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Original and thirteen (13) copies of the foregoing filed this 29th day of March, 2013 with:

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